

# CURRICULUM VITAE

## Declan Fellowes Hyde

(May 2019)

### General

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Full Name: Declan Fellowes Hyde  
Age: 59 (DOB - 24<sup>th</sup> April 1960)  
Citizenship: Australia  
Qualifications: B.A. LL.B (Monash University, Melbourne)  
Current position: Barrister, Victorian Bar  
Admitted to the Legal Profession: 3<sup>rd</sup> April 1986 (Supreme Court of Victoria)  
Signed Victorian Bar Roll: 25 May 1989  
Other admissions to legal practice: N.S.W., W.A., High Court

### Contact

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Email: [hyde@vicbar.com.au](mailto:hyde@vicbar.com.au)  
Mobile: 0411-126-2332

### Higher education qualifications

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University: Admitted to double degree Arts and Law at Monash University 1978.

Completed studies in Faculties of Arts and Economics & Politics in 1982 (Political Science, Languages and Music). Graduated B.A. 20<sup>th</sup> May 1983.

Completed studies in Faculty of Law in 1984. Graduated LL.B. 8<sup>th</sup> May 1985.

Statement of Academic Record certified 10<sup>th</sup> December 1987 annexed.

Pre-admission qualifications in Civil Procedure and Accounting completed at University of Melbourne.

Period obtaining degrees (7 years) included deferred study due to full-time employment in remote northern Australia (mining), private security industry and overseas employment and travel.

## **Employment history (Law)**

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### *Pre-graduation:*

Approx. 2 years as a volunteer at Springvale Legal Service (to 1984).

### *Articled Clerkship & Solicitor:*

Articles of Clerkship and solicitor at Ellison Hewison & Whitehead (now Minter Ellison), Melbourne, February 1985 - June 1986 (commercial and civil law).

Solicitor at Freehill Hollingdale and Page (now Herbert Smith Freehills), Melbourne, June 1986 – end 1987 (commercial and civil law).

Solicitor Australian Legal Group (Parker & Parker) (now Allens Linklaters), Perth, end 1987 to start 1989 (commercial and civil law and mining & resources).

### *Barrister:*

Joined Victorian Bar March 1989. Signed Bar Roll May 1989. Thirty years' experience in private practice as Counsel at Victorian Bar.

Initial practice in civil, criminal and administrative law matters in Magistrates' and County Courts and Commonwealth and State administrative tribunals (AAT and VCAT) and commercial cause and appellate work as junior counsel.

Later practice predominantly Supreme and Federal Court commercial causes, both first instance and appeal, County Court (commercial causes, medical negligence and "white collar crime") together with administrative law first instance and appellate matters. (Cth. jurisdiction predominantly veterans' entitlements and bankruptcy. VCAT jurisdiction Civil List and property matters).

Specialization over past 10 years + (& current areas of practice) - More complex commercial and property law matters, principally insurance, contract, corporations law, consumer law, all forms of land transactions and disputes, insolvency and external administration, professional negligence, confidential information, equity, trusts.

Extensive experience in all forms of alternate dispute resolution, principally judicial and private mediation.

## **Associations & other**

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Victorian Bar

Commercial Bar Association

Undergraduate and Post-Graduate Mentor - Melbourne & Monash University Law Schools.

Victorian Bar Council Sub-Committee member (2014)

Director List A Barristers Pty Ltd (6 years)

## **Website profiles**

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List A Barristers Pty Ltd / CommBar / VicBar

## **Referees**

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### Judicial character referees:

Justice Sifris	Supreme Court
Justice Almond	Supreme Court
Justice Elliott	Supreme Court
Justice John Dixon	Supreme Court
Justice Jane Dixon	Supreme Court

### Practitioner referees:

Prof. Peter Zablud	Solicitor & Notary Public	(03) 9670-4222
Mr Timothy Davies	Solicitor	0419 305 021
Mr Peter Collinson QC	Senior Counsel, Victorian Bar	(03) 8600-1703
Mr Michael Osborne QC	Senior Counsel, Victorian Bar	(03) 8600-1703
Mr. Grant Bonner	Partner, Norton Rose Fulbright, Sydney	(02) 9330 8328
Mr Tim McFarlane	Mediator	(03) 9607-9401
Mr Rob Goldstein	Mediator	0423 38 48 23

## **Personal**

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Married. 2 adult children. Reside inner Melbourne. Interests include fitness & sports, economics, history, philosophy, chess, technology, travel, music, viticulture and wines, Japan.

### **Selected representative list of matters (chronological)**

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*Henderson v Amadio Pty Ltd (No 1)* (1995) 62 FCR 1 - Federal Court of Australia corporations – trade practices – negligence – equity – torts – damages - insurance

*Challenge Bank Ltd v VL Cooper and Associates Pty Ltd* [1996] 1 VR 220 - Supreme Court of Victoria – negligence - causation of loss – mitigation of loss - contract – breach – contributory negligence

*Deledio v Repatriation Commission* (1997) 47 ALD 261 - Federal Court of Australia – Administrative law - defence and war – veteran’s entitlements - hypothesis as to causation

*Repatriation Commission v Deledio* (1998) 83 FCR 82 - Federal Court of Australia (Full Court Beaumont, Hill And O’Connor JJ) - appeal - administrative law - defence and war – veteran’s entitlements

*In The Matter of Moustafa El Moustafa (A Debtor); Cobbs Hill (Tasmania) Meat Supplies Pty Ltd (In Liquidation) and Ors v Moustafa El Moustafa and Ors* (1998) 83 FCR 403 Federal Court of Australia – bankruptcy - composition –statutory interpretation

*Universal Greening Pty Ltd v Sabine* [1999] FCA 529 Federal Court of Australia –corporations - statutory demand – statutory interpretation

*Harris v Repatriation Commission* (2000) 62 ALD 174 Federal Court of Australia - administrative law – veteran’s entitlements - appeal from Administrative Appeals Tribunal

*J J Leech & Sons (Vic) Pty Ltd v Underwriting Agencies of Australia Pty Ltd* [2000] VSCA 219 - Supreme Court of Victoria – Court Of Appeal - insurance – interpretation of exclusion clause - procedure and evidence

*Wharton v Official Receiver in Bankruptcy* (2001) 107 FCR 28 - Federal Court of Australia – bankruptcy – discharge – statutory interpretation - Bankruptcy Act 1966 s 149D(1)(d)

*ASIC v Allied Financial Pty Ltd* [2002] VSC 204 - Supreme Court of Victoria – corporations law – role of ASIC

*Horizon Local Communications Networks Pty Ltd v MGM Wireless Pty Ltd* (2002) AIPC 91-815 - Federal Court of Australia – copyright – injunctions

*Waikato (Pty) Ltd and Anor v Kaplan & Anor* [2002] VSC 310 - Supreme Court of Victoria – international joint venture/partnership – injunction

*Collie v Merlaw Nominees Pty Ltd (in Liquidation)* [2003] VSC 148 - Supreme Court of Victoria – judicial discretion - discharge of restraining order

*Golden Sands Pty Ltd v Davegale Pty Ltd* [2003] VSC 458 - Supreme Court of Victoria – Contract – joint venture

*PCH Melbourne P/L v Break Fast Investments P/L* [2007] VSC 87 - Supreme Court of Victoria – trespass to land (airspace) – statutory interpretation – judicial discretion

*Break Fast Investments Pty Ltd (ACN 090 648 990) v PCH Melbourne Pty Ltd* (2007) 20 VR 311 - Supreme Court of Victoria – Court of Appeal – airspace trespass – stay of proceedings - application of discretion

*Imaging Applications Pty Ltd & Anor v Vero Insurance Ltd* [2008] VSC 178 - Supreme Court of Victoria – Appeal from County Court - dismissal for want of prosecution / abuse of process

*David Sharbutt v Supatech Holdings Pty Ltd & Anor* (2009) FCA 612 - Federal Court of Australia - international letters of credit - summary judgment – contract – trusts - Trade Practices - fiduciary duties

*Mantec Thoroughbreds Pty Ltd v Batur & Anor* (2009) 25 VR 507 - Supreme Court of Victoria -validity and scope of rural easement – damages - remedies

*Re Panache Global Holdings & Ors* [2010] VSC 137 - Supreme Court of Victoria - seizure of property (luxury motor vehicle) - security interests - injunctive relief.

*Balanced Securities Ltd v Bianco & Ors* (2010) 27 VR 599 - Supreme Court of Victoria - mortgage securities - Torrens title – lease - statutory exceptions to indefeasibility of title

*Balanced Securities Limited v Bianco & Ors (No 2)* [2010] VSC 201 Supreme Court of Victoria - quantification of damages – delay - discretion

*Daicon Pty Ltd v. Dellacombe Pty Ltd & Anor* [2011] - VCAT proceeding - retail tenancies dispute - commercial leasing

*Re Alpha Technologies Corporation Ltd (in Liquidation)* [2011] - Supreme Court proceeding - liquidator's powers in winding up - procedure - 468A(3) *Corporations Act* 2001 (Cth)

*Dometic Pty Ltd & Anor v Olaf Wolfgang Bach & Ors* [2011] VSC 651 - Supreme Court of Victoria - employment contracts - fiduciary and statutory duties - unfair dismissal

*Crawfords Leisure Group Pty Ltd v. Sovereign Hotel Group* [2012] County Court proceeding - breach of contract - damages

*Daniel James Allison v. BDO Group Pty Ltd & Ors* [2012] - Supreme Court proceeding - interlocutory injunction

*Risk Protection Group Pty Limited v. AVS Group of Companies Pty Ltd* [2012] - Supreme Court proceeding - statutory demand

*Noan Pty Ltd v 19<sup>th</sup> Hole Centre Pty Ltd & Ors* [2012] - Supreme Court proceeding – easements - - easement over entire lot - use of easement - roads – estoppel - injunctions

*Break Fast Investments Pty Ltd & Anor v Gravity Ventures Pty Ltd & Ors* [2013] VSC 89 - - Supreme Court of Victoria - variation of NSW freezing order - procedural discretion

*20 Young Road Pty Ltd v Mircea Cica* [2013] - County Court proceeding – sale of land – vacant possession – default – specific performance – damages

*Taco Bill Mexican Restaurants (Australia) Pty Ltd v. Westmex Investments Pty Ltd & Anor* [2013] - Supreme Court proceeding – franchising – restrictive covenant - injunctive relief

*Polyxeni Kambouris v. Theo Tabmazis & Ors* [2013] - Supreme Court proceeding - director's duties - fiduciary duties

*Finch v The Heat Group & Ors* [2013] - Federal Court proceeding - abuse of process - security for costs - procedure

*United Lift Services Pty Ltd & Ors v John Hermus & Ors* [2013-2014] - Supreme Court proceeding - director's duties - oppression of minority shareholders - 232 & 233 *Corporations Act*

*The Digital Group Pty Ltd re Laxton* [2014] - Supreme Court proceeding - interpretation of contract - dispute re Shareholders' Agreement

*National Australia Bank v Pillay* [2014] - Supreme Court proceeding - application of *National Consumer Credit Protection Act* 2009 (Cth) and *Australian Securities and Investments Commission Act* 2001 (Cth.) - unconscionable conduct and/or misleading and deceptive conduct by bank

*Re Knox v Katholios and Lime Sublime Pty Ltd and Eagle v Katholios and Lime Sublime Pty Ltd* [2014] - Supreme Court proceedings (2) – easements – sale and purchase of land constituting easement – restriction of use of easement - reinstatement of unlawful works - damages

*Cameron v Smeg Australia Pty Ltd* [2014] - Fair Work Commission proceeding - employment law – unfair dismissal and compensation - general protections application under Part 3-1 of the *Fair Work Act* (Cth.)

*Pajoubesh v Borden & Ors* [2014] - VCAT proceeding - owners corporation dispute – powers of owners corporation committee

*Costa Tsavalias v Moonee Valley Hospitality Pty Ltd & Ors* [2014] - County Court proceeding – insurance – liability of hotelier – serious assault – insurer's obligation to indemnify – liability of Lloyds of London

*Megan Louise Henderson v Condolezza Properties Pty Ltd* [2014] - County Court proceeding – insurance – procedure – summary judgment – expert evidence

*Re Whittaker v Surplus Properties Pty Ltd & Ors* [2012-2015] - County Court proceeding - sale of land - mistake - indefeasibility - negligence - agency - estoppel

*Greek Orthodox Church & Community of Bankstown & District St. Euphemia Ltd (St. Euphemia School) re Dang* [2014-2015] - Tort - liability of NSW school for conduct of teachers

*Dai Sun v Utokyo Pty Ltd and Anor* [2015] - County Court proceeding - sale of business – misrepresentation – operation of s.52(3) of *Estate Agents Act* 1980 (Vic.) – relief from forfeiture

*In the Matter of ACN 056 444 627 Pty Ltd (in Liq) and Stirling Lindley Horne and Ors (Liquidators) and Yellow Express Taxi Trucks Pty Ltd* [2015] - Supreme Court proceeding – unfair preference dispute – existence of running account – operation of section 588FA(3) *Corporations Act*

*Yarra Services Pty Ltd & Ors v Vocation Limited* [2015] - Supreme Court proceedings – contract – default – effect of government enquiry requiring repayment of subsidies - proof of loss – insolvency - administration

*Re Ausecon Developments Pty Ltd* [2015] - Supreme Court proceeding & VCAT proceeding – contract – land development – equitable interests – trusts - liquidation – proof of debts – powers & duties of liquidator -

*Re Gloria Tocigl: Central Victorian Investments Limited & Ors* [2015] - Supreme Court proceedings (2) and Federal Circuit Court proceeding - indefeasibility of title - trusts - equitable interests in land - mortgages – default – caveats – appointment of receiver – bankruptcy – stay of proceedings

*Re S.C.S Investments: Woodhouse v Watt* [2015] - Supreme Court proceeding – shareholder oppression action – exclusion of shareholder – operation of ss.232 & 233 *Corporations Act* – trusts – redistribution - taxation - ATO Private Rulings - liability for capital gains tax

*In the matter of Regent Rentals Pty Ltd (In Liquidation): Suzanna Varvatselis v Regent Rentals Pty Ltd (In Liquidation)* [2015] - Supreme Court proceeding – insolvency - winding up orders – statutory demands – service of process - proof of debts – powers & duties of liquidator – provision of statement of affairs – directors' obligations to assist liquidator – proof of solvency

*Ausecon Developments Pty Ltd v Sertac Salih Kamil* [2016] VCAT proceeding – domestic building dispute – construction of residence – contract – joint venture - defects - estoppel

*Ambridge Investments Pty Ltd v Tress Cox Lawyers and Michael Leon Sifris* - [2016] - Supreme Court proceeding – damages – professional negligence – advocates' immunity from suit - procedure – separate trial/preliminary question – Rule 47.04 Supreme Court Rules

*Rujan Properties Pty Ltd v CEG Direct Securities Pty Ltd* [2016] Supreme Court proceeding – breach of commercial loan agreements – enforcement of security – possession – misrepresentation – ex parte and interlocutory injunctions

*T. & M. Davis v Melbourne Room Service and Catering Pty Ltd* [2016] County Court proceeding - sale of business – misrepresentation of international sales – operation of *Estate Agents Act* 1980 (Vic.)

*Vassiliadis v WAG Developments Pty Ltd* [2016] VCC 795 - County Court proceeding - sale of land – special conditions – variation of contract – rescission and repudiation – duty to mitigate - recovery of deposit – relief from forfeiture - quantification of vendor’s loss and damage

*Re Theka Pty Ltd* – [2016] - Proposed Supreme Court proceeding – variation of trust deed under s. 63A *Trustee Act* – NSW trust – procedure and discretion - rights of beneficiaries - resettlement – taxation and duties

*The Really Good Company Pty Ltd v MAE Pacific Pty Ltd* [2016] VSC 517 – trusts / interpretation of unit trust deed / statutory misleading & deceptive conduct / joint venture & fiduciary duties / statute of limitations / account stated / remedies.

*Dale Patricia Shumack v Jiri Anthony Kousal* [2016-2017] – (County Court) - trespass to land / consequential damage to land / adverse possession / evidence / *Surveying Act* 2004 (Vic.).

*MCG Quarries Pty Ltd v Beach & Ors* [2017] FCA 1601 - (Federal Court) - competition law / s.45 *Competition & Consumer Act* 2010 (Cth) / supply of quarry product / summary judgment

*Burstin v Australia China Investment Fund Limited Ltd* - [2017] (County Court) - contract – significant investor visa regime / estoppel / quantum meruit.

*Jordan & Anor and Tenrose Pty Ltd v Melbourne Water Corporation* – [2017] (VCAT) - damages resulting from unreasonable flow of water under *Water Act* 1989 / negligence / evidence.

*Peter Ivan Macks v John Viscariello* [2017] SASCFC 172 - corporate insolvency (administration and liquidation) / statutory and general law duties of company officers / *Corporations Act* 2001 (Cth.) / powers and remedies / damages / loss of a chance / proof of damage / misleading & deceptive conduct / conduct of administrators / leave to appeal out of time / Constitutional law / declaratory power of State courts exercising Federal jurisdiction / s.109 Constitution.

*In the Matter of Core Dental South Melbourne Pty Ltd: Mustica v Pajoubesh & Ors* [2017-2018] oppression action / ss.232 & 233 *Corporations Act* / dissolution of partnership.

*Pajoubesh v Mustica* [2017-2018] (Supreme Court of Victoria) - injunction re breach of settlement deed.

*Ford Dental Consulting Pty Ltd v Core Dental Ivanhoe Pty Ltd* [2018] (Supreme Court of Victoria) - oppression action / s.232 *Corporations Act*.

*Bob Jane Corporation Pty Ltd v Connor & Amelia Pty Ltd* [2019] (Supreme Court of Victoria – Commercial List) S ECI 2018 01195 – Franchise dispute / misleading and deceptive conduct / de facto directors / duties





# STATEMENT OF ACADEMIC RECORD

**Monash University**



Address: Clayton, Victoria  
Australia 3168

Telephone: (03) 565 4000  
Telegrams: Monashuni Melbourne

NAME **HYDE** PS DATE OF BIRTH **26/4/60** SEX **MALE** METHOD OF ADMISSION **NORMAL**  
DECLAN FELLOWES DEGREE HELD

NUMBER **7822421** LAST SECONDARY SCHOOL **NEWBORN HIGH**

HIGHER SCHOOL CERTIFICATE RESULTS	STATES/REMARKS	QUALIFICATIONS OBTAINED
1977 ENGLISH 426 ENG LIT 659 FRENCH F39 ART 656 MUS HSL 466	- NIL -	GRADUATED B.A. 20TH. MAY, 1983  GRADUATED LL.B. 8TH MAY 1985

COURSE	RESULTS	COURSE	RESULTS
<b>1978 ARTS/LAW BA LLB 7822421</b>		<b>1982 CONTD.....</b>	
FR 10306 INTRODUCTORY FRENCH	PI	WILLS PROBATE & ADMIN 515 E	P
LEGAL PROCESS 100	PI	PL 35104 MODERN STATE CRISIS	P
MU 10106 INTRO WESTERN MUSIC	PI	PL 36904 VAR OF EUROPEAN FACTS	C
SP 10106 INTRO SPAN	DISC 10	<b>1983 ARTS/LAW B.A., LL.B. 7822421</b>	
<b>1979 ARTS/LAW BA LLB 7822421</b>		CONSTIT LAW 300	DISC 11
CONTRACT 200	P	CONSTIT LAW 300 ST-3	DISC 11
TORTS 200	P	ADMIN CRIM JUST 415	DISC 16
MU 21104 MATER&STRUC PART II	P	INDUSTRIAL ARBITRATION 115	P
MU 22104 WESTERN VOCAL	P	CURRENT PROBS IN CRIM LAW 415	C
PL101 POLITICS	PI	LABOUR ORGANISATIONS 415	C
<b>1981 ARTS/LAW BA LLB 7822421</b>		EVIDENCE 530	C
CRIMINAL LAW & PROCEDURE 300 B	P	EVIDENCE 530 STREAM-2	
PROPERTY I 300 B	P	<b>1984 ARTS/LAW B.A., LL.B. 7822421</b>	
PL 21904 AMERICA DEM CAPESTATE	P	CONSTITUTIONAL LAW 300	P
PL 22904 AUST, ASIA & PACIFIC	P	CONSTITUTIONAL LAW 300 STREAM1	
PL 35704 PROB OF WAR	DISC 10	COMPANY LAW 515	P
PL 36104 AFRICAN POLITICS	SEP	RESTITUTION 515	C
<b>1982 ARTS/LAW B.A., LL.B. 7822421</b>		TAXATION 530	P
CONSTIT LAW 300	DISC 23	TAXATION 530 STREAM-1	
ADMINISTRATIVE LAW 300	JUN	MOOT COURT 500	P
MOOT COURT 400 (2)	P		
PROPERTY II 430	C		
COMMERCIAL CONFLICT OF LAWS 415	P		
COMPANY LAW 515	PI		
THE LAWYER 515	NN		
	C		
The record to this line certified correct.			
Signed <i>John A. Guller</i> Date 10/12/87			
Checking Officer — Student Administration			

**RESULT GRADING KEY**

HE First Class Honours	PIH Pass Division II including discipline for supplementary exam	EMAA A	DNC Did not complete assessment requirement
H2A Second Class Honours, Division A	SP Pass	EMAB B	ENCL Excluded
H2B Third Class Honours, Division B	SPI Pass Division I	EMAD D	FR Faculty Requirement Unmet/Not
H3 High Distinction	SPII Pass Division II	EMAL E	NE Not finally counted. Subject being assessed over more than one year
D Distinction	SPIII Pass Division III	EMAP F	NC Subject not graded
C Credit	PO Pass qualified to continue	ARS Absent	NN Fail
P Pass	NO No higher grade is awarded	ANND Resubmitted by Discipline Committee. Deemed to be a failure	ND Resub subject to review
PI Pass Division I	PGO Pass grade with (available from 1983)	CANC Resub cancelled by Discipline Committee	NK Fail - supplementary examination granted
PII Pass Division II	SEK Substantial Faculty requirement	UEE Special (Deferred) examination granted	DI Unexam discipline assessed over more than one year
	SP and SPI are equivalent grades	DBC Discontinued	WH Withdrawn

**NOTES:**

- Result grades are inconsistent with the regulations due to a change of subject enrolment. The grading system applicable to the particular degree applies and may be extended by reference to the regulations in the opinion of the Faculty, provided it is made clear in the University Calendar.
- Deferment is a type of grade for subjects and may be awarded and a listing of the matter which may be awarded with grade is different course.
- Some names of other subjects and units may be abbreviated. The full name is contained in the appropriate Faculty Handbook.

This statement of academic record is a document of the University. The Director of the Faculty of Education reserves the right to amend or delete any part of this statement without notice. This statement is maintained by the University and is the property of the University. It is not to be used for any other purpose.

*John A. Guller*  
A. L. P. Richards  
REGISTRAR